

## REMARKS

### *Claim Amendments*

The claims have been amended only to designate non-elected method claims 7, 13 and 14 as “withdrawn”, pending rejoinder upon allowance of compound claims. The method claims are, and necessarily will be maintained commensurate in compound scope with the elected compound claims upon which they are dependent.

No new matter is added by these amendments. Therefore, entry of these amendments is believed to be in order and is respectfully requested prior to issuing a first Action on the merits in this application.

Following entry of the above amendments, claims 1-4, 6, 7 and 10-14 are pending in this application, with claims 1-4, 6 and 10-12 being in active prosecution and claims 7, 13 and 14 being designated as withdrawn.

### *Response to Restriction Requirement*

The Examiner has required restriction between six Groups as defined as follows:

**Group I**, claim(s) 1-4, 6, and 10-12, drawn to a chemical compound, a pharmaceutical composition, and a process for preparing the chemical compound of formula (I).

**Group II**, claim(s) 7, drawn to a method of treating, or reducing the risk of, a human disease or condition in which inhibition of neutrophil elastase activity is beneficial using the chemical compound of formula I.

**Group III**, claim(s) 13, drawn to a method for the treatment of an inflammatory disease or condition using the chemical compound of formula I.

**Group IV**, claim(s) 13, drawn to a method for the prophylaxis of an inflammatory disease or condition using the chemical compound of formula I.

**Group V**, claim(s) 14, drawn to a method for the treatment of a disease or condition using the chemical compound of formula I.

**Group VI**, claim(s) 14, drawn to a method for the prophylaxis of a disease or condition using the chemical compound of formula I.

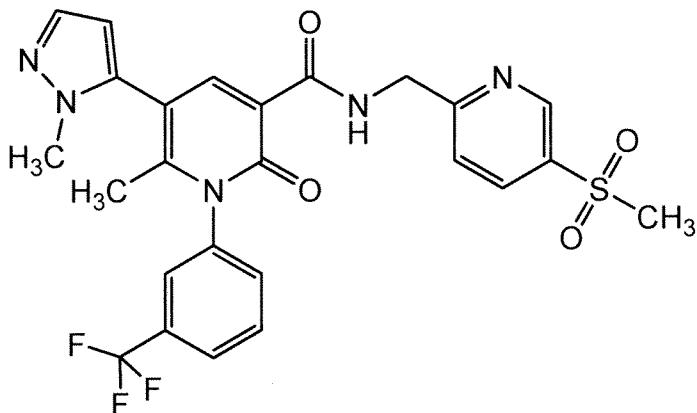
Applicants hereby elect the invention of Group I, compound, composition (formulation), and process-for-preparing claims 1-4, 6, and 10-12. It is understood that when the elected product claims are found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder, and

therefore the non-elected process claims have been maintained pending, but designated as withdrawn.

The Examiner has also required that Applicants elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. In response to this requirement, Applicants hereby provisionally elect as the single disclosed species the compound of Example 94 and the penultimate compound listed in claim 12, being the compound:

6-Methyl-5-(1-methyl-1H-pyrazol-5-yl)-N-{[5-(methylsulfonyl)pyridin-2-yl]methyl}-2-oxo-1-[3-(trifluoromethyl)phenyl]-1,2-dihdropyridine-3-carboxamide,

having the structure:



It is understood that this is a provisional election for the purpose of initiating prior art searches, and that the scope of such searches will be expanded until a genus is found allowable. The elected species is encompassed by compound claims 1-4, 11 and 12, and falls within the compound scope of pharmaceutical formulation claim 6 and process-for-preparing claim 10.

*Table of Technically Related Applications*

The Examiner's attention is called to the following Table of U.S. applications of Applicants' assignee that may be considered to be technically related in some manner to the subject matter of the present application. The current status of each application as reported in the PAIR database is given in the right-hand column. Each published US applications and PCT application listed in this Table **in bold** is listed on the form PTO-1449 attached to the Information Disclosure Statement being submitted herewith, and a copy of the **bold** published PCT application is provided with the Information Disclosure Statement. All other published US

applications and PCT applications listed on this table have been previously formally cited in this application, and a copy of all other published PCT applications listed on this table have been previously provided in this application.

It is assumed that the Examiner has ready electronic access to these pending US applications, but the undersigned will provide a copy of any document from these files if requested by the Examiner.

| <b>US Appln</b> | <b>Date US Filed</b> | <b>US Pub. #</b>      | <b>PCT Pub. #</b>                  | <b>Current Status</b>   |
|-----------------|----------------------|-----------------------|------------------------------------|---|
| 10/534,720      | 12-May-05            | <b>US 20060035938</b> | <b>WO 2004/043924</b><br>27-May-04 | Abandoned   |
| 10/569,923      | 24-Feb-06            | <b>US 20060270666</b> | WO 2005/021512<br>10-Mar-05        | Abandoned   |
| 10/569,571      | 24-Feb-06            | <b>US 20070010551</b> | WO 2005/021509<br>10-Mar-05        | Abandoned   |
| 10/572640       | 17-Mar-06            | <b>US 20070043036</b> | WO 2005/026124<br>24-Mar-05        | Abandoned   |
| 11/908,736      | 07-Oct-08            | <b>US 20090131483</b> | <b>WO 2006/098683</b><br>21-Sep-06 | Docketed - Ready for Examination;<br>Predicted first Action December<br>2010.             |
| 11/908,748      | 20-May-08            | <b>US 20090105239</b> | <b>WO 2006/098684</b><br>21-Sep-06 | Docketed-Ready for Examination;<br>Predicted first Action September<br>2010.              |
| 12/299,879      | 29-Jan-09            | <b>US 20090131486</b> | <b>WO 2007/129962</b><br>15-Nov-07 | Response to Restriction Requirement<br>filed September 25, 2009; referred to<br>Examiner. |
| 12/299,878      | 29-Jan-09            | <b>US 20090209555</b> | <b>WO 2007/129963</b><br>15-Nov-07 | Docketed-Ready for Examination;<br>Predicted first Action March 2011.                     |
| 12/439,850      | 04-Mar-09            | --                    | <b>WO 2008/030158</b><br>13-Mar-08 | Undergoing pre-exam processing.   |

***Supplemental Information Disclosure Statement***

As noted above, the Examiner's attention is drawn to the further Information disclosure Statement submitted herewith, together with a form PTO-1449 on which is listed additional documents including each of the published US patent applications and published PCT applications listed **in bold** on the above Table. A copy of each of the foreign patent documents and other (literature) documents listed on this form PTO-1449 is submitted therewith. It is respectfully requested that the Examiner consider each cited document and acknowledge such consideration by returning an initialed copy of the form PTO-1449 to the undersigned.

**EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Director is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully Submitted,  
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